

## **MVR Policy 1.1            Timely Services**

**Applied Effective Date:** 12/27/02

**Last Edition Date:** 6/ 1/1999

**Federal Authority:** 34 CFR 361.41 Processing Referrals and Applications

**State Authority:** ARM 37.30.102 Vocational Rehabilitation Policy:  
Incorporation by Reference of Federal and State Authority

### **Policy Statement:**

MVR will inform individuals of the time requirements incorporated in the application and eligibility determination process at the time the individual expresses intent to apply. MVR shall process applications and determine eligibility and ineligibility within sixty days of the date of application unless the consumer and the counselor mutually agree on a specific extension of time due to circumstances beyond the control of the consumer or agency. The agency shall provide all services in a timely and equitable manner.

## **MVR Policy 1.2            Timeliness of Referral**

**Applied Effective Date:** 10/01/03

**Last Edition Date:**

**Federal Authority:** Sec. 361.41 Processing referrals and applications

**State Authority:**

### **Policy Statement:**

Montana Vocational Rehabilitation will inform individuals who are referred to the MVR agency of application requirements and the necessity of gathering information necessary to initiate an assessment for determining eligibility and priority for services within 30 days from notification of referral. The means by which the individual is to be informed shall be either:

1. Through a face to face meeting with an agency representative or when that is not possible;
2. By means of a mailing (or other appropriate electronic means of transfer) of information in accessible format and language including an application form.

## **MVR Policy 1.3            Information and Referral Services**

**Applied Effective Date:** 12/27/02

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**Federal Authority:** 34 CFR 361.37 Information and Referral Services

**State Authority:** ARM 37.30.102 Vocational Rehabilitation Policy:  
Incorporation by Reference of Federal and State Authority

**Policy Statement:**

MVR will implement an information and referral system to ensure individuals with disabilities will be provided accurate vocational rehabilitation information and guidance, using appropriate modes of communication, to assist such individuals in preparing for, securing, retaining, or regaining employment. In addition to information regarding the availability and benefits of, and information on eligibility standards for vocational rehabilitation services, consumers will be appropriately referred to federal and state programs (other than the vocational rehabilitation program carried out under this title), including other components of the statewide workforce investment system in the state.

An appropriate referral will be made through MVR to federal or state programs, including programs carried out by other components of the statewide workforce investment system in the state, best suited to address the specific employment needs of an individual with a disability; and include, for each of these programs, provision to the individual of:

1. A notice of the referral by MVR to the agency carrying out the program;
2. Information identifying a specific point of contact within the agency carrying out the program;
3. Information and advice regarding the most suitable services to assist the individual to prepare for, secure, retain, or regain employment; and
4. Provide that eligible individuals, who do not meet the order of selection criteria, shall have access to services provided through the information and referral system.

**MVR Policy 1.4            Use of Existing Information**

**Applied Effective Date:** 12/27/02

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**Federal Authority:** 34 CFR 361.42 Assessment for Determining Eligibility and Priority for Services

**State Authority:** ARM 37.30.102 Vocational Rehabilitation Policy:  
Incorporation by Reference of Federal and State authority.

**Policy Statement:**

1. Use of Existing Information.

The determination of eligibility and the development of the Individualized Plan for Employment (IPE) shall be based on a review of existing data and to the extent that additional data is necessary, a preliminary review of that data.

Determinations made by officials of other agencies regarding whether an individual has an impairment that creates a substantial impediment to employment shall be used to the extent appropriate and available. To the extent appropriate, information provided by the individual and by the family of the individual will be used. Prior to the determination of eligibility, the case record must contain evidence of the disability upon which the determination was based. An individual is eligible for MVR Title I services if the individual is an individual with a disability and requires vocational rehabilitation services to prepare for, secure, retain, or regain employment. The term "individual with a disability" means any individual who:

- a. Has a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment; and
- b. Can benefit in terms of an employment outcome from vocational rehabilitation services.

## **MVR Policy I.5                      Presumption of Eligibility**

**Applied Effective Date:** 12/27/02

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**Federal Authority:** 34 CFR 361.42 **Assessment for Determining Eligibility and Priority for Services**

**State Authority:** ARM 37.30.102 Vocational Rehabilitation Policy: Incorporation by Reference of Federal and State Authority.

### **Policy Statement:**

An individual who has a disability or is blind as determined pursuant to Title II or Title XVI of the Social Security Act shall be:

- 1. Considered to be an individual with a significant disability; and
- 2. Presumed to be eligible for vocational rehabilitation services under this title (provided that the individual intends to achieve an employment outcome consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) unless MVR can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

Nothing in this policy shall be construed to create an entitlement to any vocational rehabilitation service.

## **MVR Policy 1.6                      Presumption of Benefit**

**Applied Effective Date:** 12/27/02

**Last Edition Date:** 6/ 1/1999

**Federal Authority: 34CFR 361.42 Assessment for Determining (2)  
Eligibility and Priority for Services**

**State Authority: ARM 37.30.102** Vocational Rehabilitation Policy: Incorporation by Reference of Federal and State Authority.

**Policy Statement:**

An individual shall be presumed to be an individual that can benefit in terms of an employment outcome from vocational rehabilitation services, unless the counselor can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual. In making the demonstration, the counselor shall explore the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences with appropriate supports provided through MVR, except under limited circumstances when an individual cannot take advantage of such experiences. Such experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual or to determine the existence of clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

**MVR Procedure 1.1 Procedure and Instruction for Learning Disorders**

**Applied Effective Date:** 06/05/03

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**Learning disorder -- definition.**

The term "learning disorder," (LD) (formerly known as specific learning disability), includes a number of related structural and/or functional central nervous system disorders that affect higher cognitive functioning. The DSM-IV lists the following categories: reading disorder (dyslexia), mathematics disorder (dyscalculia), disorders of written expression (disgraphia) and learning disorders that are not otherwise specified, usually because the disorder may include problems in multiple areas. Learning disorders are not the result of visual, hearing, or motor disabilities, mental retardation, mental illness, or environmental, cultural, or economic disadvantage.

What is required on record in the file for MVR staff to initiate an eligibility

determination based on a reported learning disorder?

The file must contain a report from a qualified professional. A qualified professional is a certifying professional. Those professionals include the clinical psychologist, school psychologist, educational psychologist, neuro-psychologist, and school or mental health based psychometrists. These professionals must be certified or licensed to diagnose learning disorders.

The report must contain a DSM-IV diagnosis that specifies the presence of a reading, mathematics, or expression disorder. The diagnostician must provide specific descriptive rationale for learning disorders not otherwise specified. Based on the DSM IV diagnostic guidelines, in order to diagnose learning disorder for the purpose of MVR eligibility, tests must demonstrate a discrepancy of more than two standard deviations between achievement and I.Q. As indicated in DSM-IV, a diagnostician may justify a discrepancy of less than two standard deviations when there exists a co-morbid mental disorder or another general medical condition that would impact IQ scores and therefore affect the range of discrepancy.

Testing information for students and young adults under the age of 18 can be no more than three years old. To adequately assess an individual for eligibility for vocational rehabilitation services, Montana Vocational Rehabilitation strongly recommends the information generated from the use of the Weschler Adult Intelligence Scale – III (WAIS-III) for obtaining IQ, including the sub scale scores. Montana Vocational Rehabilitation recommends the use of Woodcock Johnson Achievement Test (WJ-R) or the Weschler Individual Achievement Test (WIAT-3) for establishing achievement levels. Commensurate information can be considered for use in MVR eligibility determination under the guidance of a consultant who is a qualified professional in the diagnosis of learning disorders.

### **Having obtained the diagnosis what else must MVR consider?**

Individuals who have diagnosed learning disabilities may be eligible for Montana Vocational Rehabilitation Services if their disability causes a substantial impediment to employment and if the individual requires services to prepare for, secure, retain or regain employment.

MVR must first utilize existing information in establishing eligibility or conducting the assessment of rehabilitation need. In the process of establishing if the learning disorder constitutes a substantial impediment to employment MVR staff must address the following:

1. The individual has considerable difficulty with job tasks requiring reading or writing spelling or math calculations/application and:

- a. The individual's ability to concentrate is so impaired that they cannot learn the essential job functions or stay attentive to job tasks; or
  - b. The individual cannot learn new tasks or solve routine work problems because of the learning difficulties; or
  - c. The individual is unable to remember or understand essential work instructions or processes.
  - d. Other substantial impediments arising from related structural and/or functional central nervous system disorders that affect higher cognitive functioning as identified by the counselor
2. If one of the above functional limitations (a-d) is met the person is eligible. The following limitations may supplement the eligibility rationale:
- a. The individual's work habits interfere with the ability to obtain maintain or perform any job; or
  - b. The individual is unable to appropriately interact with coworkers or the employer;
  - c. Or the individual has considerable difficulty communicating with the employer or coworkers on-the-job.

The case manager need only address the diagnosis and minimally one of the functional limitations for the purpose of establishing eligibility. For the purposes of the comprehensive assessment all relevant limitations must be addressed. If the counselor must obtain supplemental reports from qualified professionals, the adequate report will address not only the diagnostic features of the individual, but also the consequent functional limitations.

For the purposes of eligibility, the Montana Vocational Rehabilitation Counselor must determine that the individual requires Montana Vocational Rehabilitation services in order to achieve career competitive employment. Eligibility issues that must be addressed are:

- 1. Does a consumer have transferable work skills that would preclude the need for Montana Vocational Rehabilitation services,
- 2. Is the consumer impeded from achieving the vocational objective without one or more vocational rehabilitation services?

Having established eligibility the counselor must also assess the appropriatenes of the employment goal in terms of that consumer's vocational objective being consistent with his or her strengths, resources priorities concerns abilities, capabilities and informed choice. As is always the case, the counselor must be concerned that the information gathered or paid for, be thorough enough to meet not only the requirements for determining eligibility, but also meet the needs / requirements of other programs whose services will be a part of the rehabilitation process. It is, for example, important to reduce the need for multiple evaluations or gathering information a second time before being able to participate in services like obtaining a GED or attending higher education.